

REMARKS

As set forth above, claims 1-5 are hereby cancelled as being drawn to a non-elected invention. The undersigned reserves the right to file and prosecute these claims in a continuing application. Claims 6, 7, 9 and 11 are amended and claims 12 – 14 have been added. Claim 12 corresponds to claim 8 as originally filed, claim 13 corresponds to claim 10 as originally filed and claim 14 corresponds to claim 11 as originally filed. Claims 6-14 are currently pending. In the Office Action mailed September 26, 2003, the Office rejected the claims as follows: claims 6-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sones (4,817,123) and claim 6 is alternatively rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith (4,047,036).

The undersigned submits that in view of the amendments and arguments presented herein, the pending claims are allowable over the cited art and respectfully requests a notice to such effect.

Rejection of Claims 6-11 in View of Sones

Each of claims 6-11 as amended above includes at least a discrete photon counter or discrete photon counting. Sones does not teach or suggest either a discrete photon counter or discrete photon counting. Sones detects multiple x-ray signals simultaneously and produces a signal representative of the multiple x-ray signals on a per pixel basis. Sones does not and cannot discretely count photons.

Further, with regard to claims 7, 8, and 10–14, Sones does not describe the image adjustment relationship, $l=kZ/D$ as define in the claims for adjusting the image according to multiple image planes. The Office cites to 3 full pages of the reference (i.e., columns 9-14) for this teaching stating, "Regarding claim 8, Sones further discloses that the adjustment means further includes a computing means for determining an image adjustment distance for multiple planes with the target (see generally col. col. 9, line 24 to col. 14, line 15)." But the undersigned fails to see where this limitation is either taught or suggested by the reference. More importantly, the Sones solution for producing an image from the multiple rows of detectors is a complex hardware circuitry solution and thus does not include the claimed "image-generating program" with associated steps or the "computing means for determining an image adjustment distance for multiple planes

with the target." The present invention utilizes a software approach with corresponding processor hardware to adjust for multiple rows and solve the image adjustment relationship, $1=kZ/D$, which includes determining the depth of an object from the image data. The software approach described by the present invention and set forth in the claims has distinct advantages over the expensive hardware approach described by Sones including decreased cost and complexity, improved flexibility and the ability to determine depth information. The undersigned respectfully submits that the claims are allowable over Sones.

Rejection of Claims 6 in View of Smith

As stated above, claim 6 as amended includes at least a discrete photon counter. As with Sones, Smith does not teach or suggest a discrete photon counter or discrete photon counting. Smith, like Sones, detects multiple x-ray signals simultaneously and produces a signal representative of the multiple x-ray signals on a per pixel basis. Smith does not and cannot discretely count photons. The undersigned respectfully submits that claim 6 is allowable over Smith.

Conclusion

The undersigned submits that the claims presented herein are allowable over the cited prior art and respectfully requests a notice to this effect. Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below. In addition, if any additional fees are required in connection with the filing of this response, the Commissioner is hereby authorized to charge the same to Deposit Account No. 501458.

Respectfully submitted,

Date: 12/29/03
KILPATRICK STOCKTON LLP
Suite 900
607 14th Street, N.W.
Washington, DC 20005
(202) 508-5889

By:

Dawn-Marie Bey
Dawn-Marie Bey (Reg. No. 44,442)